

Message Text

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PAGE 01 STATE 012269
ORIGIN SS-25

INFO OCT-01 ISO-00 SSO-00 (ISO) R

DRAFTED BY OPIC/T:PJMULLER
APPROVED BY EB/IFD/OIA:RJSMITH
AF/E:PETER SMITH
EB/IFD/OIA:DHSTEBBING
L:SMSCHWEBEL
S/S - MR. BRIDGES

-----191312Z 096106 /22

R 190056Z JAN 77
FM SECSTATE WASHDC
TO AMEMBASSY LUSAKA

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EXDIS FROM OPIC

E.O. 11652: N/A

TAGS: EINV

SUBJECT: TAW LEASING

FOR AMBASSADOR STEPHEN LOW FROM ROBERT VON MEHREN

1. UPON MY RETURN TO THE UNITED STATES FOLLOWING DISCUSSIONS IN LUSAKA WITH YOU AND MR. BARCAS ON DECEMBER 2, 1976, I MET ON DECEMBER 22 WITH RICHARD POST AND PETER SMITH OF THE EAST AFRICAN SECTION OF THE STATE DEPARTMENT AND THEREAFTER WITH MONROE LEIGH, LEGAL ADVISER, AND STEPHEN SCHWEBEL, DEPUTY LEGAL ADVISER. WE DISCUSSED IN CONSIDERABLE DETAIL THE TWO MATTERS CONCERNING TAW LEASING WHICH I HAD RAISED WITH YOU IN LUSAKA.

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2. I REPORTED TO POST, SMITH, LEIGH AND SCHWEBEL THAT, FROM THE POINT OF VIEW OF THE U.S. EMBASSY LUSAKA, YOU WERE PREPARED TO REQUEST AN INQUIRY BY THE ZAMBIAN GOVERNMENT INTO THE YANJANANI TRUCK TRANSFER AND, SUBJECT TO ADVICE FROM THE LEGAL ADVISER, WERE PREPARED TO INFORM THE GOVERNMENT OF ZAMBIA THAT ANY SETTLEMENT OFFER BY IT WITH RESPECT TO THE TAW ARBITRATION COULD BE ACCEPTED BY THE

CREDITORS PURSUANT TO SECTION 9.2 OF THE COMPOSITION AGREEMENT. BOTH THE EAST AFRICAN DESK AND THE LEGAL ADVISER INDICATED THAT THEY BELIEVE IT WOULD BE APPROPRIATE FOR YOU (A) TO REQUEST THE INQUIRY AND (B) TO RAISE THE ISSUE OF SETTLEMENT.

3. THEREAFTER, I DISCUSSED THE QUESTION OF AN INQUIRY INTO THE TRUCK SALE AND RAISED THE ISSUE OF SETTLEMENT WITH MY CLIENTS -- OVERSEAS PRIVATE INVESTMENT CORPORATION, THE FIRST NATIONAL BANK OF CHICAGO AND THE CHASE MANHATTAN BANK. FOR A NUMBER OF REASONS, WE HAVE DECIDED (A) THAT IT IS BEST NOT TO REQUEST THAT YOU RAISE THE ISSUE OF SETTLEMENT AT THIS TIME WITH THE ZAMBIAN GOVERNMENT AND (B) THAT THE ISSUE OF AN INQUIRY INTO THE TRUCK TRANSFER SHOULD BE DISCUSSED ONLY AFTER THE ZAMBIAN WINDING UP PROCEEDING HAS BEEN COMMENCED. ACCORDINGLY, AS SOON AS YOU HAVE BEEN ADVISED THAT THE WINDING-UP PETITION HAS BEEN FILED, WE REQUEST THAT YOU APPROACH THE ZAMBIAN GOVERNMENT AT AN APPROPRIATE GOVERNMENTAL LEVEL TO REQUEST THAT THE GOVERNMENT COMMENCE AN INQUIRY INTO THE TRUCK TRANSFER. THE REPRESENTATIVE TO BE APPROACHED SHOULD, OF COURSE, BE SELECTED BY YOU BUT THE EAST AFRICAN DESK HAS SUGGESTED THAT THE APPROACH BE MADE AT THE MINISTERIAL LEVEL. THE REPRESENTATIVE WITH WHOM THE MATTER IS DISCUSSED SHOULD BE ADVISED OF THE UNITED STATES GOVERNMENTAL INTEREST IN THE PROPOSED INQUIRY. I SHOULD APPRECIATE YOUR KEEPING ME INFORMED OF WHAT IS DONE AND OF ALL SIGNIFICANT DEVELOPMENTS.

4. I BELIEVE THAT MR. BARCAS HAS AVAILABLE SUBSTANTIAL LIMITED OFFICIAL USE

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INFORMATION ON THE YANJANANI SALE. IF HE NEEDS ANY FURTHER INFORMATION, MR. QUIRK (OUR LOCAL COUNSEL) HAS A FILE WHICH I HAVE SENT TO HIM DEALING WITH THIS SUBJECT. I SHOULD ALSO NOTE THAT IN OUR DECEMBER 22 MEETING, WE ASKED THAT THE LEGAL ADVISER CONSIDER WHETHER THERE IS ANY WAY IN WHICH FURTHER INFORMATION AS TO THE BENEFICIAL OWNERSHIP OF ZAMBESI DEVELOPMENT LIMITED, THE BAHAMIAN CORPORATION WHICH OWNS APPROXIMATELY 45 PERCENT OF YANJANANI, CAN BE DEVELOPED.

5. FOR YOUR FURTHER INFORMATION, ON DECEMBER 16, 1976, THE SUPREME COURT NEW YORK COUNTY RENDERED A DECISION GRANTING THE QUOTE MOTION BY DEFENDANTS FOR AN ORDER DISMISSING THE COMPLAINT AND GRANTING SUMMARY JUDGMENT IN FAVOR OF DEFENDANTS ON THEIR COUNTERCLAIMS END QUOTE IN THE ACTION TAW ET AL. V. OPIC ET AL. A FINAL JUDGMENT

ON THIS DECISION HAS BEEN ENTERED AND WILL SHORTLY BE IN THE POSSESSION OF MR. QUIRK, OUR ZAMBIAN COUNSEL.

6. WE SHALL, OF COURSE, BE PLEASED TO FURNISH YOU WITH ANY FURTHER INFORMATION AND TO ANSWER ANY QUESTIONS WHICH YOU HAVE RELATING TO THE FOREGOING.

7. WE VERY MUCH APPRECIATED YOUR COURTESY IN DISCUSSING THIS MATTER WITH US AND THE EFFORTS OF THE U.S. EMBASSY IN CONNECTION THEREWITH.

8. FINALLY, I EMPHASIZE THAT IT IS MOST IMPORTANT THAT THE SUBJECT MATTER OF THIS CABLE AND THE INTENTION TO INSTITUTE WINDING-UP PROCEEDINGS BE KEPT IN ABSOLUTE CONFIDENCE. WE SHALL HAVE MR. QUIRK ADVISE YOU SIMULTANEOUSLY WITH THE FILING IN COURT OF THE WINDING-UP PROCEEDING.

ROBERT B. VON MEHREN, DEBEVOISE, PLIMPTON, LYONS AND GATES.
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DECONTROL JANUARY 17, 1978
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